

**Appl. No.** : **10/601,070**  
**Filed** : **JUNE 6, 2003**

## **REMARKS**

Applicants hereby respond to the Office Action mailed July 14, 2006. Applicants have reviewed all of the Examiner's rejections and remarks as set forth in the Office Action and respond thereto in detail below.

### **Amendments to the Claims**

Applicants have amended Claims 1-2, 15-16, 18, and 24-27. Claims 5, 6, 8 and 28-35 have been canceled. In addition, Claims 36-44 have been added. Support for Claims 36-44 is supported throughout the specification (e.g., page 27, paragraph [0079]-[0080]).

### **Rejection under 35 U.S.C. § 102(a)**

Claims 1-7, 9-14, 17, 18, and 20-27 stand as rejected under 35 U.S.C. § 102(a) as being anticipated by Andersson, (WO 01/66521). The Examiner stated in the Office Action that Andersson discloses azacyclic compounds having inverse agonist activity at the 5-HT2A receptor subtype for treating serotonin related diseases such as psychosis. The Examiner specifically pointed to page 25, lines 12-29 (specifically lines 18-19) and Claim 7 at page 135, line 22 to page 136, line 6.

Applicants have amended Claim 1 to recite "R<sup>1</sup> is an optionally substituted heterocyclyl." None of the compounds referred to by the Examiner in WO 01/66521 disclose a heterocyclyl directly attached to the nitrogen-containing ring. Thus, Applicants respectfully submit that the compounds disclosed in the present application are novel over WO 01/66521; and therefore respectfully request withdrawal of this rejection by the Examiner. Applicants have amended Claim 1 to recite "R<sup>1</sup> is an optionally substituted heterocyclyl." Therefore, Applicants respectfully submit that this objection no longer is applicable.

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**Rejection under Obviousness-Type Double Patenting**

*U.S Patent No. 6,815,458*

Claims 1-7 and 9-27 have been rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-48 of U.S. Patent No. 6,815,458. Applicants respectfully disagree. The Examiner alleged that the specific compounds disclosed in Claim 6 of U.S. Patent No. 6,815,458 anticipate the pending claims of the instant application when R<sup>1</sup> represents a heterocyclyl(alkyl).

*U.S. Patent Application Nos. 11/299,566, 11/417,866 and 11/418,353*

Claims 1-7 and 9-27 have been provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-20 of U.S. Patent Application No. 11/299,566, Claims 1-52 of U.S. Patent Application No. 11/417,866, and Claims 1-52 of U.S. Patent Application No. 11/418,353. U.S. Patent Application No. 11/299,566 is a continuation of the present application, and U.S. Patent Application Nos. 11/417,866 and 11/418,353 are continuations of U.S. Patent Application No. 11/299,566. Relative to the present application, all the aforementioned applications are later-filed applications. In view of the arguments presented by the Applicants with respect to the rejection under 35. U.S.C. § 102(a) and the filing of a terminal disclaimer herewith with respect to U.S. Patent No. 6,815,458, Applicants respectfully submit that the present application is in condition for allowance. According to M.P.E.P. § 804(I)(B)(1), “If a ‘provisional’ nonstatutory obviousness-type double patenting (OPD) rejection is the only rejection remaining in the earlier- filed of the two pending application, [], the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.” Thus, Applicants respectfully request the withdrawal of the provisional obviousness-type double patenting rejections.

**Conclusion**

In view of foregoing Remarks, Applicants respectfully submit that this application is in condition for allowance, early notification of which would be appreciated. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing

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below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Dec. 14, 2006

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AMEND

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